

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Southern California Edison Company (U 338-E) for Approval of a Power Purchase Agreement under PUHCA Section 32(k) Between the Utility and a Wholly-owned Subsidiary and for Authority to Recover the Costs of Such Power Purchase Agreements in Rates.

Application 03-07-032  
(Filed July 21, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REGARDING TURN'S NOTICE OF  
INTENT TO CLAIM COMPENSATION**

This ruling responds to a notice of intent (NOI) to claim compensation filed by The Utility Reform Network (TURN) on October 10, 2003, in the above referenced proceeding. Simultaneously with the NOI, TURN filed a motion for Acceptance of Late-Filed NOI to Claim Compensation. No party filed a response. In the Proposed Decision (PD) for Application (A.) 03-07-032, mailed November 18, 2003, TURN's motion for acceptance of late-filed NOI was granted. This ruling addresses the requirements of the Public Utilities Code, Division 1, Part 1, Chapter 9, Article 5, §1804. All statutory references are to the Public Utilities Code.<sup>1</sup>

Under §1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference (PHC) is held, file

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<sup>1</sup> All statutory references are to the Public Utilities Code.

and serve on all parties to the proceeding a notice of intent to claim compensation.” This NOI was filed 58 days following the PHC, but is accepted as a timely NOI since there was no harm or prejudice by TURN’s late filed document.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b) and identify whether the intervenor is a participant representing consumers, a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied.

### **Customer Status**

TURN is a non-profit consumer advocacy group, organized in 1973, to represent the interests of residential and small commercial customers of California’s utility companies regulated by the Commission. D.98-04-059 requires groups such as TURN to include in their NOI’s a copy of the authorization in their articles of incorporation to represent residential customers, or to provide a reference to a previous filing. TURN previously included a copy of the relevant portions of its articles of incorporation, which authorizes TURN’s representation of the interests of residential customers, in its NOI in Application (A.) 98-02-017, and again in A.99-12-024. The articles of incorporation have not changed since the time of those earlier submissions. D.98-04-059 also requires TURN to provide the percentage of how many of its customers are residential ratepayers. TURN has in excess of 30,000 dues-paying members, a majority of whom it believes are residential customers. TURN does not poll members to

determine the breakdown between residential and small business, so TURN is unable to provide a precise percentage.

### **Financial Hardship**

Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. For a group or organization, § 1802(g) defines financial hardship as a state in which “the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.” TURN’s members are small residential customers whose individual interests in this proceeding are small relative to the costs of participation and the cost of TURN’s participation in Commission proceedings substantially outweighs the benefit to any individual customer it represents.

Section 1804(b)(1) states in part:

“A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding.”

TURN received a finding of significant financial hardship in a ruling issued in A.02-07-050, dated March 25, 2003. This present proceeding commenced within one year of the date of that finding, so the rebuttable presumption applies in this case. A finding of significant financial hardship in no way, however, ensures compensation for TURN (Section 1804(b)(2)).

Pursuant to D.98-04-059, an intervenor must state in their NOI how it will represent customer interests that would otherwise be underrepresented. While the Commission’s Office of Ratepayer Advocates represents all ratepayers, TURN only represents the interests of core customers. TURN tailored its

participation to ensure that its work served to support and complement the work of other parties that share TURN's position. TURN worked to avoid any undue duplication of work by ORA, or others, whenever practicable. Participation in Commission proceedings by parties representing the full range of affected interests is important as it assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

### **Planned Participation**

This proceeding addressed whether the Commission should grant Edison's application to purchase a generation facility known as Mountainview, and have it owned and operated by an Edison wholly-owned subsidiary pursuant to a Federal Energy Regulatory Commission jurisdictional power purchase agreement. TURN fully participated in all aspects of the case.

Section 1804(a)(2)(A)(I) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. TURN has already actively participated in the proceeding by attending the PHC, conducting discovery, participating in the Edison Procurement Review Group analysis of confidential documents, filing briefs on specified subjects, serving testimony, cross-examining witnesses, and filing a post-hearing brief.

### **Estimated Compensation Request**

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. At this time, TURN estimates a total projected budget of \$84,500 for this proceeding. TURN's proposed budget for this matter is as follows:

Attorney Freedman	(125 hours @\$250/hour)	\$31,250
Attorney Florio	(50 hours @ \$350/hour)	\$17,500
Attorney Edinton	(50hours @ \$175/hour)	\$ 8,750
Expert/Consultant JBS Energy		\$24,250
Estimated expenses		\$ 1,000
Total		\$84,500

This ruling does not address the merits of TURN's final compensation claim. The reasonableness of the hourly rates requested for TURN's representatives and expert witnesses will be addressed in their Request for Compensation.

**IT IS RULED** that:

1. The Utility Reform Network's (TURN) Notice of Intent was deemed timely filed by granting TURN's motion for acceptance of late-filed motion.
2. TURN has met the eligibility requirements of Public Utilities Code § 1804(a), including the requirement that it established significant financial hardship, and TURN is found eligible for compensation in this proceeding.
3. TURN is a customer as that term is defined in § 1804(b) and is a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.
4. TURN fulfilled the requirements of § 1804(a)(2)(A) by providing a statement of the nature and extent of its planned participation and an itemized estimate of the compensation it expects to request.

5. A finding of eligibility in no way assures compensation.
6. Parties requesting compensation shall make every effort to reduce duplication of contribution.

Dated November 20, 2003, at San Francisco, California.

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/s/ CAROL BROWN  
Carol Brown  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding TURN's Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated November 20, 2003, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.